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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1028 of 1998

WITH

CIVIL APPLICATION NO.6573 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?
- Nos. 1 to 5 No

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DUPONT ORGANICS PVT.LTD. (NOW DUPONE ORGANICS PVT.LTD.)

Versus

E I DU PONT DE NEMOURS AND COMPANY

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Appearance:

MR NK MAJMUDAR FOR MR PB MAJMUDAR for Petitioner

MR KAMAL TRIVEDI FOR M/S TRIVEDI & GUPTA  
for Respondent No. 2

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CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 27/08/98

ORAL JUDGEMENT

These two matters can be disposed of by a common order. Learned Counsel for the parties have been heard. The Civil Revision Application is directed against the order dated 19.3.1998 of the Court below. The said Civil Revision Application was time barred and for getting the delay condoned the Civil Application No. 6573 of 1998 has been filed.

Having heard learned Counsel for the parties and on going through the order under revision, it is prima facie clear that the order under revision is not revisable. Under the impugned order, the Court below under Order 39 Rule 4 of the Code of Civil Procedure refused to modify the injunction order granted on 14.10.1997. In short, the prayer was for extension of 100 days for making compliance of the direction given in the order dated 14.10.1997. For the reasons given in the impugned order this prayer was rejected. An order rejecting the request for extension of time for compliance of Court's order is not a case decided. Hence, no revision under section 115 of the Code of Civil Procedure can be maintained. Mr.N.K.Majmudar, learned Counsel for the revisionist has argued that there is jurisdictional error in the impugned order in as much as in the impugned order the Court below has practically decided the entire suit. The question of jurisdictional error can be considered only when the revision is found to be maintainable. Since the impugned order has not decided any case between the parties the revision is not maintainable. So called jurisdictional error is therefore not a ground for interference in revision.

If the revision itself is not maintainable there is no justification for condonation of delay in moving revision application. In view of the above discussions, the application for condonation of delay has to be rejected so also the revision application being not maintainable. However, it is clarified that certain observations made by the Court below in its order dated 19.3.1998 which have touched the merits of the case shall not influence the mind of the Trial Court while deciding

the main suit in accordance with law. With these observations these two applications are rejected. No order as to cost.

Sd/-

(D.C.Srivastava, J)

m.m.bhatt